

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE:

JOHN FELIX CASTLEMAN, SR., and
KIMBERLY KAY CASTLEMAN,
Debtors.

CASE NO. 2:21-cv-00829-JHC

ORDER AFFIRMING THE BANKRUPTCY
COURT'S MEMORANDUM DECISION

I.

INTRODUCTION

This appeal arises from the bankruptcy court’s June 4, 2021 memorandum decision and order that, upon conversion from Chapter 13 to Chapter 7, the Chapter 7 estate includes the post-petition, pre-conversion increase in equity in the Debtors’ house. Dkt. #1 at 14. Having considered the briefs of the Debtors and the Trustee, the applicable law, and the file herein, the Court affirms the bankruptcy court’s decision.

II.

BACKGROUND

The parties do not dispute these facts:

1 On June 13, 2019, John Felix Castleman, Sr. and Kimberly Kay Castleman (“Debtors”)
 2 filed for bankruptcy under Chapter 13. Dkt. # 6–1 at 2. On September 25, 2019, the bankruptcy
 3 court confirmed their Chapter 13 plan. *Id.* at 5–6. At the time of filing, the Debtors listed their
 4 house in their original schedules with a value of \$500,000.00. Dkt. # 9 at 17. They claimed a
 5 homestead exemption of \$124,923.00 and listed a mortgage of \$375,077.00. *Id.* at 24, 28.
 6 Later, their circumstances changed such that they could no longer adhere to their Chapter 13 plan
 7 and, on February 5, 2021, they exercised their right to convert their case to Chapter 7. Dkt. # 9
 8 at 107, 124; Dkt. # 6–1 at 9. Between the time of filing and conversion, their house appreciated
 9 about \$200,000.00, and the Trustee claims that it is currently worth at least \$700,000.00. Dkt. #
 10 9 at 119. This action arose out of the Trustee’s motion to sell the house (Dkt. # 9 at 117), and the
 11 Debtors’ objection to the motion (*Id.* at 123).

12 The Debtors claim that they are entitled to the homestead exemption as well as the
 13 increase in equity over the Chapter 13 period, including equity derived from mortgage payments
 14 and appreciation. Dkt. # 8. The Trustee claims that the Debtors are entitled to only the
 15 homestead exemption, and that the Trustee may sell the residence for its present market value
 16 and use any nonexempt equity to pay creditors. Dkt. # 11.

17 The bankruptcy court concluded that the post-petition, pre-conversion equity in the
 18 Debtors’ house belongs to the bankruptcy estate. Dkt. # 1 at 14. The Debtors appeal.

19 **III.**

20 **STANDARD OF REVIEW**

21 This Court reviews a bankruptcy court’s interpretation of the Bankruptcy Code de novo.
 22 *See Einstein/Noah Bagel Corp. v. Smith (In re BCE W., L.P.),* 319 F.3d 1166, 1170 (9th Cir.
 23 2003).

IV.

ANALYSIS

A. Interpretation of 11 U.S.C. § 348(f)(1)(A)

Because this case involves a conversion from Chapter 13 to Chapter 7, the Court first looks to 11 U.S.C. § 348(f)(1)(A), which states:

(1) Except as provided in paragraph (2), when a case under chapter 13 of this title is converted to a case under another chapter under this title—

(A) property of the estate in the converted case shall consist of property of the estate, as of the date of filing of the petition, that remains in the possession of or is under the control of the debtor on the date of conversion;¹

The statute unambiguously provides that property acquired after the initial Chapter 13 petition but before the conversion to Chapter 7 inures to the debtor. *See, e.g., Harris v.*

Viegelahn, 575 U.S. 510, 514 (2015) (holding that post-petition, pre-conversion wages earned by the debtor are excluded from the estate). But its plain language does not address whether the increase in equity of a pre-petition asset qualifies as a separate, after-acquired property interest—as with after-acquired wages—or whether it is inseparable from the asset itself. Put another way, § 348(f)(1)(A) does not indicate whether “property of the estate, as of the date of filing of the petition” refers to property as it existed at the time of filing, with all its attributes, including equity interests.

¹ The briefing in this case—and particularly Trustee’s brief—references 11 U.S.C. § 348(f)(1)(B), which concerns valuations of property and of allowed secured claims in conversion cases. But this provision does not apply because a valuation is not needed to determine whether the post-petition, pre-conversion equity in the house inures to the Debtors or to the estate. None of the cases cited by the parties rely on section 348(f)(1)(B) in addressing this issue. The provision is more appropriately applied in cases involving redemption, *see, e.g.*, *In re Airhart*, 473 B.R. 178 (Bankr. S.D. Tex. 2012), and lien avoidance/bifurcation, *see, e.g.*, *In re Martinez*, No. 7-10-11101 JA, 2015 WL 3814935, at *1 (Bankr. D.N.M. June 18, 2015). The briefing also references 11 U.S.C. § 348(f)(2), which concerns the contents of the estate when a debtor converts to Chapter 7 in bad faith. Neither party alleges, nor is there any evidence in the record to suggest, that the Debtors converted in bad faith.

1 Based on the subsection’s silence on this issue, the Debtors assert that the statute is
 2 ambiguous.² They urge the Court to look to alternate sources of authority such as the legislative
 3 history, which they argue shows Congress’s intent to classify increased equity in a pre-petition
 4 asset as a separate and after-acquired property interest. Dkt. # 8 at 12–13. But before looking
 5 beyond the plain language of the provision, the Court must first seek to interpret section
 6 348(f)(1)(A) based on the full statutory context of the Bankruptcy Code. *See, e.g., Food Mktg.*
 7 *Inst. v. Argus Leader Media*, 139 S. Ct. 2356, 2364 (2019) (“In statutory interpretation disputes,
 8 a court’s proper starting point lies in a careful examination of the ordinary meaning and structure
 9 of the law itself . . . Where . . . that examination yields a clear answer, judges must stop.”
 10 (internal citations omitted)); *see also Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997) (“The
 11 plainness or ambiguity of statutory language is determined by reference to the language itself,
 12 the specific context in which that language is used, and the broader context of the statute as a
 13 whole.”).

14 To gather evidence of statutory meaning, a Court may turn to the rest of the provision,
 15 *see, e.g., NLRB v. SW Gen., Inc.*, 137 S. Ct. 929, 938–39 (2017) (considering disputed terms
 16 from statutory subsection individually and then considering them as a whole); the act as a whole,
 17 *see, e.g., FCC v. AT&T Inc.*, 562 U.S. 397, 407–08 (2011) (considering meaning of “personal
 18 privacy” given its use in a distinct but similar exemption within the same statute); or similar
 19 provisions elsewhere in the law, *see, e.g., Unicolors, Inc. v. H&M Hennes & Mauritz, L.P.*, 142

20 ² The Debtors also point to the varying ways courts have interpreted the provision in the
 21 context of post-petition, pre-conversion equity as reflective of ambiguity. *Compare In re*
Barrera, 620 B.R. 645 (Bankr. D. Colo. 2020), aff’d, No. BAP CO-20-003, 2020 WL 5869458
 22 (10th Cir. BAP Oct. 2, 2020) (holding that post-petition, pre-conversion equity gain inures to the
 23 debtor) and *In re Cofer*, 625 B.R. 194, 202 (Bankr. D. Idaho 2021) (same) with *In re Goins*, 539
 24 B.R. 510, 516 (Bankr. E.D. Va. 2015) (holding that post-petition, pre-conversion equity gain
 inures to the estate) and *In re Peter*, 309 B.R. 792, 795 (Bankr. D. Or. 2004) (same).

1 S. Ct. 941, 947 (2022) (looking to how “nearby statutory provisions” use a specific word). As
 2 the Supreme Court stated in *United Sav. Ass’n of Tex. v. Timbers of Inwood Forest Assocs., Ltd.*,
 3 484 U.S. 365, 371 (1988), “Statutory construction . . . is a holistic endeavor. A provision that
 4 may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme. . .”

5 B. 11 U.S.C. § 541(a)

6 Section 541(a) broadly defines the contents of the bankruptcy estate. It provides that
 7 property of the estate includes “all legal or equitable interests of the debtor in property as of the
 8 commencement of the case,” “wherever located and by whomever held.” 11 U.S.C. § 541(a)(1).
 9 Property of the estate also includes “[p]roceeds, product, offspring, rents, or profits of or from
 10 property of the estate, except such as are earnings from services performed by an individual
 11 debtor after the commencement of the case.” 11 U.S.C. § 541(a)(6).

12 In *Wilson v. Rigby*, 909 F.3d 306, 309 (9th Cir. 2018), the Ninth Circuit interpreted these
 13 provisions together, in the Chapter 7 context, to mean that post-petition appreciation in a debtor’s
 14 home inures to the estate. It found that the debtor’s residence transferred to the estate upon filing
 15 of the petition under section 541(a)(1), and that any post-petition appreciation was encompassed
 16 in section 541(a)(6)’s definition of “[p]roceeds, product, offspring, rents, or profits” of the
 17 property. *Id.*³ Although the Debtors emphasize that *Wilson* is not a conversion case, they do not
 18 argue that the terms, “proceeds,” “product,” “offspring,” “rents,” or “profits” should carry
 19 different meanings in the conversion context; nor does the Court see why they should.

20 The Ninth Circuit’s interpretation of section 541(a) illuminates the meaning of section
 21 348(f)(1). It is well settled that in a Chapter 7 case, all property that the debtor acquires post-

23 ³ The Court notes that *Wilson* interprets the plain meaning of the terms, “proceeds,
 24 product, offspring, rents, or profits” to include appreciation *even if* a sale has not yet occurred.
 But the Court recognizes that it is bound by the Ninth Circuit’s decision.

1 petition is excluded from the estate. *See, e.g., Harris*, 575 U.S. at 514 (citing § 541(a)(1)).
 2 Therefore, if appreciation were a separate, after-acquired property interest, it would have to inure
 3 to the debtor. The Ninth Circuit, in finding that appreciation inures to the estate under 541(a)(6),
 4 has necessarily found that increased equity in a pre-petition asset cannot be a separate, after-
 5 acquired property interest. This logic applies with equal force in a conversion case. Thus,
 6 although section 348(f)(1)(A) may appear ambiguous at first blush, the Court concludes that it is
 7 unambiguous when considered in the context of the Code as a whole and under the Ninth
 8 Circuit's holding in *Wilson*.

9 Here, as in *Wilson*, it is undisputed that the Debtors' residence was property of the
 10 bankruptcy estate at the petition date, and that the Debtors remained in possession of the
 11 residence at the date of conversion. Further, under *Wilson*, any changes in value are classified as
 12 “[p]roceeds, product, offspring, rents, or profits” under section 541(a)(6). Therefore, the
 13 increased equity is property of the bankruptcy estate, and the trustee may sell the residence
 14 including the appreciation to pay creditors. To the extent that the Debtors have made any
 15 mortgage payments on the property, they may file a motion for payment of administrative
 16 expenses under 11 U.S.C. § 503(b).⁴

20

21 ⁴ The Court notes that, in jurisdictions not bound by the Ninth Circuit's decision in
 22 *Wilson*, section 348(f)(1)(A) is amenable to a different interpretation. In particular, the
 23 legislative history of that provision suggests that Congress did, in fact, intend for post-petition
 24 equity in a pre-petition asset to be excluded from the bankruptcy estate. *See* H.R. Rep. No. 103-
 835 at 57 (1994), as reprinted in 1994 U.S.C.C.A.N. 3340, 3366. But the Court does not reach
 the legislative history because the Ninth Circuit's interpretation of the Bankruptcy Code as a
 whole clarifies the meaning of section 348(f)(1)(A).

1 V.

2 **CONCLUSION**

3 Given the above, the Court affirms the decision of the bankruptcy court.

4 Dated this 1st day of July, 2022.

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7 John H. Chun
8 United States District Judge

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